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Order 2004-1-21  
Served: January 26, 2004



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 26<sup>th</sup> of January, 2004

Essential Air Service at

**MERCED, CALIFORNIA**

Under 49 U.S.C. 41731 *et seq.*

**DOCKET OST-1998-3521 -15**

**ORDER SETTING FINAL RATES**

By Order 2001-10-9, October 18, 2001, the Department selected Eagle Canyon Airlines, Inc., d/b/a Scenic Airlines, to provide subsidized essential air service (EAS) at Merced, California, through October 31, 2003. Under that order, Scenic operates 14 nonstop round trips a week with 19-seat Beech 1900 aircraft to Las Vegas. First and second-year subsidy rates were set at \$949,458 and \$749,433.<sup>1</sup> Most recently, by Order 2004-1-9 we requested proposals for EAS at Merced, because our selection of Scenic expired on October 31, 2003. Proposals are due February 17.

The carrier has agreed to continue providing the service set by Order 2002-5-20 at the lower second year rate of \$844,479 temporarily while we complete a carrier-selection case. We have reviewed that rate and find it reasonable. By extending the second-year rate the carrier will be continue to be compensated and the Department will have certainty as to its ultimate subsidy exposure in the interim. The rate is significantly lower than the first-year rate of \$1,031,224 that expired on October 31, 2002. We will continue to process the carrier-selection proceeding.

This order is issued under authority delegated in 49 CFR 1.56a(f).

**ACCORDINGLY,**

1. We extend the second year rate established in Order 2002-5-20 for Scenic's essential air service at Merced effective November 1, 2003, until further Department action;

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<sup>1</sup> By Order 2002-1-13 the Department increased subsidy rates program-wide after the terrorist attacks of September 11 to reflect increased expenses and decreased revenues, and the carriers' inability to adjust their service due to their contractual obligations under the EAS program. Scenic's revised rates at Merced were \$1,031,224 and \$844,479.

2. We direct Scenic Airlines to retain all books, records, and other source and summary documentation to support claims for payment and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Department. Such documentation shall be retained for seven years or until the Department indicates that the records may be destroyed, whichever comes first. Copies of flight logs for aircraft sold or disposed of must be retained. The carrier may forfeit its compensation for any claim that is not supported under the terms of this order;

3. This Docket will remain open until further Department action; and

4. The Department will serve copies of this order on the Mayor and Airport Manager of Merced, California, the Governor and Department of Transportation of the State of California, and Scenic Airlines, Inc.

By:

**KARAN K. BHATIA**  
Assistant Secretary for Aviation  
and International Affairs

**(SEAL)**

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